



UNITED STATES PATENT AND TRADEMARK OFFICE

A

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/919,069 | 07/30/2001 | Richard Wodzianek | 034300-167 | 2663 |

7590

12/19/2005

ROBERT E. KREBS
THELEN REID & PRIEST LLP
P.O BOX 640640
SAN JOSE, CA 95164-0640

| |
|----------|
| EXAMINER |
|----------|

WALSH, JOHN B

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

2151

DATE MAILED: 12/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/919,069

Applicant(s)

WODZIANEK, RICHARD

Examiner

John B. Walsh

Art Unit

2151

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on RCE of 10/24/2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-24 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,430,409 to Rossmann.

As concerns claim 1, a system comprising: a computer (column 8, lines 4-5) operably connected to a network (abstract, line 4, figures 5 and 7), the computer having software (inherent that computer has some form of software such as an operating system) configured to track the status of multiple modem units (multiple cell phones), the software allowing for the production of status checks (message sent to the cell phones) to be sent to the multiple modem units; and modem units configured to receive status check messages (cell phones adapted to receive the message), the modem units being associated with host processors (processors of computer), the modem units configured to reply with modem status information without being controlled by the host processors (response from cell phone).

As concerns claims 2, 10 and 19, wherein the computer is connected by the Internet to a server (abstract, computer connected to a server and internet).

As concerns claims 3 and 11, wherein the server is connected to a cellular network (figure 7).

As concerns claim 4, wherein the computer system sends requests across the network through the server, across the cellular network to the individual modem units (figure 7).

As concerns claim 5, wherein the modem units receive the requests and transmit status information back across the cellular network to the computer (response from cell phone to the computer, which can be user initiated).

As concerns claims 6 and 12, wherein the modem units transmit across a cellular network (inherent that a cellular telephone is transmitting across a cellular network, 710).

As concerns claims 7, 14 and 20, wherein the modem units run the UDP protocol (714) over IP.

As concerns claim 8, 15 and 21, wherein the modem units do not have a TCP stack at the modem unit (have UDP 714).

As concerns claim 9, a computer (column 8, lines 4-5) configured to track the status of multiple modem units (cell phones), the computer producing indications that result in status checks being sent to multiple modem units (messages sent to cell phones from the computer by way of a network), the computer receiving modem status information from the multiple modem units in response to the status checks (response message from cell phone to computer, can be user initiated), the status information being produced by modem units without being controlled by host processors associated with the modem units (produced at cell phone not at a host processor such as the network computer).

Art Unit: 2151

As concerns claim 13, wherein the requests are sent from the computer system across the cellular network to the modem unit and the status information is sent from the modem unit across the cellular network to the computer (figure 7).

As concerns claim 16, a method comprising: transmitting modem status requests to modem units across cellular network (a message from a network computer, figure 7); at the modem unit, determining whether status request is for that modem unit and, if so, constructing a modem status response and transmitting a wireless response from modem unit (a message sent to the network computer from a cell phone after receiving message from the network computer); receiving modem status responses from a number of modem units (network can have multiple cell phones) and producing a display for a group of modem units (inherent that network computer has a display such as a monitor wherein the message responses from the cell phones can be viewed).

As concerns claim 17, wherein the modem status requests are transmitted to the modem units across the cellular network (710).

As concerns claim 18, wherein the modem status requests are sent from a computer to the modem units (two way communication such that the computer can send a message, status request, to the cell phones, modem units).

As concerns claims 22-24, the modem status information comprises at least one of: modem unit identification information (inherent for message to have a source address/location which can be a unit ID).

Response to Arguments

3. Applicant's arguments filed August 26, 2005 (associated with the RCE of 10/24/2005) have been fully considered but they are not persuasive.

Rossman discloses sending a message from a computer, receiving the message at a modem (cell phone) and replying. The applicant argues that the message of Rossman is not a status message. The term "status" has been given its broadest reasonable interpretation. Furthermore the independent claims do not further limit or define the term "status" message. Claims 22-24 limit the modem status information to one of four possibilities, wherein Rossman inherently discloses modem unit identification information.

The applicant argues Rossman fails to disclose the client modules (modem units) being configured to reply without being controlled by the host processors. The cell phone/client (modem units) of Rossman has a processor/module for replying to messages. However, these processors are not the host processors. The host processors are incorporated with the servers and the cell phone/client (modem units) reply using their processors not the host processors.

The applicant argues Rossman fails to disclose modem unit identification information. In order for the communication system to work, each unit communicating must inherently have identification information, which may comprise the identity of the source of the message, such that a response to the original message knows where to send the response. Therefore the modem units of Rossman (cellphone/client) inherently have identification information with their messages.

Art Unit: 2151

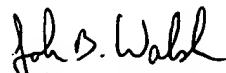
Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John B. Walsh whose telephone number is 571-272-7063. The examiner can normally be reached on Monday-Wednesday from 5:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on 571-272-3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


John B. Walsh
Primary Examiner
Art Unit 2151